

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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Journal of the Senate

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JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the first day of January in the year of Our Lord two thousand and thirteen.

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Volume 140, No.41

Wednesday, April 24, 2013

Forty-first Legislative Day

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The Senate meets pursuant to adjournment and is called to order by the Honorable M. Teresa Paiva Weed, President of the Senate, at 4:19 o'clock P.M.

The roll is called and a quorum is declared present with 38 Senators present and 0 Senators absent as follows:

**PRESENT** – 38: The Honorable President Paiva Weed and Senators Algieri, Archambault, Bates, Ciccone, Conley, Cool Rumsey, Cote, Crowley, DaPonte, DiPalma, Doyle, Felag, Fogarty, Gallo, Goldin, Goodwin, Hodgson, Jabour, Kettle, Lombardi, Lombardo, Lynch, McCaffrey, Metts, Miller, Nesselbush, O'Neill, Ottiano, Pearson, Picard, Pichardo, Raptakis, Ruggerio, Satchell, Sheehan, Sosnowski, Walaska.

**ABSENT** – 0:

**INVOCATION**

The Honorable President, by unanimous consent, presents Senator Hodgson to deliver the invocation.

(See Appendix for Invocation)

**PLEDGE OF ALLEGIANCE TO THE FLAG**

The Honorable President, by unanimous consent, presents Senator Hodgson to lead the Senate in the pledge of allegiance to the flag.

**APPROVAL OF RECORD**

The Senate Journal of the Fortieth Legislative Day of the 2013 proceedings is read in part.

Upon suggestion of Senator Hodgson and by unanimous consent, further reading of the Journal is dispensed with and the Journal approved as recorded.

**GUESTS**

Upon suggestion of Senator Walaska and by unanimous consent, the Honorable President, welcomes to the Chamber Brianna N. Bier, the 2013 Boys and Girls Clubs of Warwick Youth of the Year.

Upon suggestion of Senator Picard and by unanimous consent, the Honorable President, welcomes to the Chamber Austin Taft.

Upon suggestion of Senators Sheehan and by unanimous consent, the Honorable President, welcomes to the Chamber Representative Anthony and Silvia DeLuca.

Upon suggestion of Senator DiPalma and by unanimous consent, the Honorable President, welcomes to the Chamber Hannah Lewis and Meg Flanagan.

Upon suggestion of Senator Jabour and by unanimous consent, the Honorable President, welcomes to the Chamber Christopher Utter.

Upon suggestion of Senator Goldin and by unanimous consent, the Honorable President, welcomes to the Chamber Wendy Becker, Mary Nolan, the Honorable Myrth York and the Honorable Rhoda E. Perry.

Upon suggestion of Senator Pearson and by unanimous consent, the Honorable President, welcomes to the Chamber Lauren Kowalski.

Upon suggestion of Senator Ottiano and by unanimous consent, the Honorable President, welcomes to the Chamber Mr. Len Katzman, Chairman of the Portsmouth Democratic Town Committee.

Upon suggestion of Senator Kettle and by unanimous consent, the Honorable President, welcomes to the Chamber Denise Peal and Charlene Lataille.

**NEW BUSINESS****Senate Bill No. 871****BY** Miller**ENTITLED**, AN ACT RELATING TO TAXATION - PROPERTY SUBJECT TO TAXATION  
{LC2235/1}

Read and ordered to the Committee on Finance.

Also:

**Senate Resolution No. 872****BY** Goodwin**ENTITLED**, SENATE RESOLUTION HONORING AND COMMENDING THE BOYS & GIRLS CLUBS OF RHODE ISLAND YOUTH OF THE YEAR PROGRAM

{LC2432/1}

Senator Goodwin requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Goodwin moves passage, seconded by Senators Ruggerio, Gallo, Lynch, Metts, Algieri, Crowley, Jabour, Pearson and Picard.

The resolution is read and passed, upon a voice vote.

Also:

**Senate Resolution No. 873****BY** Gallo, Goodwin, Ruggerio, Paiva Weed, Jabour**ENTITLED**, SENATE RESOLUTION PROCLAIMING APRIL 24, 2013, AS "ARMENIAN GENOCIDE REMEMBRANCE DAY" TO COMMEMORATE THE ARMENIAN GENOCIDE OF 1915 TO 1923 AND IN HONOR OF ARMENIAN-AMERICANS

{LC2254/1}

Senator Gallo requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Gallo moves passage, seconded by Senators Ruggerio and Lynch.

The resolution is read and passed, upon a voice vote.

Also:

**Senate Resolution No. 874****BY** Raptakis, Lombardi, Algieri, Gallo, Doyle**ENTITLED**, SENATE RESOLUTION PROCLAIMING MAY 19TH OF 2013 AS "GREEK PONTIAN GENOCIDE REMEMBRANCE DAY" IN THE STATE OF RHODE ISLAND

{LC2454/1}

Senator Raptakis requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Senator Raptakis moves passage, seconded by Senator Gallo.

The resolution is read and passed, upon a voice vote.

## CALENDAR

## IN ORDER FOR WEDNESDAY, APRIL 24, 2013:

## 1. 2013-S 38 SUB A

BY Nesselbush

**ENTITLED, AN ACT RELATING TO DOMESTIC RELATIONS -- PERSONS ELIGIBLE TO MARRY**

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute A.

Senator Nesselbush moves passage, seconded by Senators Sosnowski, Miller, Archambault, Satchell, Crowley, Kettle, Pichardo, Jabour, Pearson, Doyle, Algieri, Bates, Sheehan, Cool Rumsey and Goldin.

Senator Ciccone seconded by Senators Cote, Lombardi, Ruggerio, Metts and Picard, offers the following written motion to amend.

Senators Sosnowski, Ruggerio, Lunch, Miller and Nesselbush discuss the amendment.

**FLOOR AMENDMENT**

TO

2013 -- S 38 SUBSTITUTE A

AN ACT RELATING TO DOMESTIC RELATIONS -- PERSONS ELIGIBLE TO MARRY

Madam President:

I hereby move to amend 2013 -- S 38 SUBSTITUTE A, entitled "AN ACT RELATING TO DOMESTIC RELATIONS -- PERSONS ELIGIBLE TO MARRY", as follows:

By deleting all of the language contained therein and inserting in place thereof the following language:

**"JOINT RESOLUTION****TO APPROVE AND PUBLISH AND SUBMIT TO THE ELECTORS A PROPOSITION OF AMENDMENTS TO THE CONSTITUTION OF THE STATE (MARRIAGE)**

WHEREAS, The issue of state recognition of same-sex marriage has created a division between those who propose recognition of such marriages on grounds that the right to marry is a fundamental human right which the

government must make equally available to all citizens, and those who oppose same-sex marriage and believe that requiring governmental recognition of such marriages impinges on their right to freedom of religion guaranteed by Article I Section 3 of our Constitution; both sides agree, however, on the fundamental importance of marriage to a well-ordered and productive society; and

WHEREAS, That freedom of religion is constitutionally protected and a bedrock value in society and government action which would require people to affirmatively recognize, perform or facilitate a form of marriage which is offensive to and forbidden by their religion impinges on their right to freedom of religion guaranteed by the First Amendment to the Constitution of the United States and Article I Section 3 of the Constitution of Rhode Island; and

WHEREAS, Article XIV Section 1 of our Constitution permits the General Assembly to draft and recommend a constitutional amendment to balance these important rights and to submit it to the people for debate and decision in the general election of 2014.

ACCORDINGLY, The General Assembly pursuant to Article XIV Section 1 proposes and recommends a constitutional amendment for approval at the general election of 2014 as follows:

1. CONSTITUTIONAL AMENDMENT-MARRIAGE

Approval of this amendment will recognize and define marriage in the state of Rhode Island as a legally recognized union of two (2) people.

APPROVE \_\_\_\_\_

REJECT \_\_\_\_\_

A new section shall be added to and included in Article I of the Constitution to read as follows:

Article I:

Section 25. Right to Marry

Marriage in this state is the legally-recognized union of two (2) people. The right of the people to marry shall not be denied on the basis of the gender of the parties thereto. A marriage between persons of the same gender validly entered and certified in another jurisdiction which does not otherwise violate the laws or public policy of this state shall not be denied because of the gender of the parties thereto.

PROVIDED HOWEVER, That consistent with the guarantees of freedom of religion set forth by both the First Amendment to the United States constitution and article I, section 3 of the Rhode Island constitution, each religious institution has exclusive control over its own religious doctrine, policy, and teachings regarding who may

marry within its faith, and on what terms, as long as such policies are consistent with sections 15-1-2, 15-1-3, 15-1-4 and 15-1-5. No court or other state or local governmental body, entity, agency or commission shall compel, prevent, or interfere in any way with any religious institution's decisions about marriage eligibility within that particular faith's tradition; and

PROVIDED FURTHER, That consistent with the guarantees of freedom of religion set forth by both the First Amendment to the United States constitution and article I, section 3 of the Rhode Island constitution, no regularly licensed or ordained clergyperson, minister, elder, priest, imam, rabbi, or similar official of any church or religious denomination as described and authorized in sections 15-3-5 and 15-3-6 of the general laws to officiate at a civil marriage, is required to solemnize any marriage. A regularly licensed or ordained clergyperson, minister, elder, priest, imam, rabbi, or similar official of any church or religious denomination shall be immune from any civil claim or cause of action based on a refusal to solemnize any marriage under this chapter. No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any church or religious denomination upon the refusal of a person associated with such church or religious denomination to solemnize a marriage under this chapter; and

PROVIDED FURTHER, That notwithstanding any other provision of law, a religious organization, association, or society, and any nonprofit institution or organization operated, supervised or controlled by a religious organization, association or society, or a fraternal benefit or service organization that has among its stated purposes the promotion and support or protection of a religious organization, association or society and that restricts membership to practicing members of that religious organization, association or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods, or privileges is related to: (1) The solemnization of a marriage or the celebration of a marriage, and such solemnization or celebration is in violation of its religious beliefs and faith; or (2) The promotion of marriage through any social or religious programs or services, which violates the religious doctrine or teachings of religious organization, association or society. Any refusal by an entity described above or an officer, employee or member thereof acting in an official capacity on behalf of that entity to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this subsection shall not create any civil claim or cause of action. This subsection shall not be construed to limit a religious organization, association, or society, or a fraternal benefit or service organization as described in this subsection, from selectively providing services, accommodations, advantages, facilities, goods, or privileges to some individuals with respect to

the solemnization or celebration of a marriage but not to others; and

PROVIDED FURTHER, That Nothing in the marriage laws of this state shall be deemed or construed to limit the protections and exemptions provided to religious organizations under G.L. paragraph 28-5-6(7)(ii) and subsection 34-37-4.2(a); and

PROVIDED FURTHER, That a fraternal benefit or service organization that is operated, supervised or controlled by a religious organization and a fraternal benefit or service organization which has among its stated purposes the promotion, support or protection of a religious organization and which restricts its membership to practicing members of that religious organization shall not be required to admit any individual as a member or to provide benefits to any individual. A refusal by a fraternal benefit or service organization or by a member, officer or employee thereof acting in an official capacity on behalf of a society described herein, to admit an individual as a member or to provide benefits related to a marriage which is in violation of the religious doctrine or teachings of the religious organization to which its members are required to adhere, shall not create a civil claim or result in any government action to penalize, withhold benefits from the fraternal benefit or service organization or discriminate against a society or a member, officer or employee described herein.

RESOLVED, That the voting places in the several cities and towns shall be kept open during the hours required by law for voting therein for general officers of the state; and be it further

RESOLVED, That the secretary of state shall cause said proposition of amendment to be published as a part of this resolution in the newspaper of the state prior to the date of the said meetings of the said electors; and said proposition shall be inserted in the warrants or notices to district meetings of said electors; the district meetings shall be conducted in the same manner as now provided by law for the town, ward, and district meetings for the election of general officers of the state. "

Respectfully submitted,

SENATOR CICCONE

The motion to amend fails upon a roll call vote with 10 Senators voting in the affirmative and 28 Senators voting in the negative as follows:

YEAS - 10: Senators Ciccone, Cote, DiPalma, Lombardi, McCaffrey, Metts, O'Neill, Picard, Ruggerio, Walaska.

NAYS - 28: The Honorable President Paiva Weed and Senators Algieri, Archambault, Bates, Conley, Cool Rumsey, Crowley, DaPonte, Doyle, Felag, Fogarty, Gallo, Goldin, Goodwin,

Hodgson, Jabour, Kettle, Lombardo, Lynch, Miller, Nesselbush, Ottiano, Pearson, Pichardo, Raptakis, Satchell, Sheehan, Sosnowski.

Senator Nesselbush moves passage, seconded by Senators Sosnowski, Miller, Archambault, Satchell, Crowley, Kettle, Pichardo, Jabour, Pearson, Doyle, Algieri, Bates, Sheehan, Cool Rumsey and Goldin.

Senators Metts, Sosnowski, Miller, Raptakis, Goldin, Crowley, Conley, Lunch, Hodgson, O'Neill, Doyle, Sheehan, Pichardo and Goodwin discuss the act.

The bill marked Substitute "A" is read and passed, and the original bill indefinitely postponed, by unanimous consent, upon a roll call vote with 26 Senators voting in the affirmative and 12 Senators voting in the negative as follows:

YEAS - 26: Senators Algieri, Archambault, Bates, Conley, Cool Rumsey, Crowley, DaPonte, Doyle, Fogarty, Gallo, Goldin, Goodwin, Hodgson, Jabour, Kettle, Lombardo, Lynch, Miller, Nesselbush, Ottiano, Pearson, Pichardo, Raptakis, Satchell, Sheehan, Sosnowski.

NAYS - 12: The Honorable President Paiva Weed and Senators Ciccone, Cote, DiPalma, Felag, Lombardi, McCaffrey, Metts, O'Neill, Picard, Ruggerio, Walaska.

**2. 2013-H 5015 SUB B**

**BY Handy**

**ENTITLED, AN ACT RELATING TO DOMESTIC RELATIONS - PERSONS  
ELIGIBLE TO MARRY**

Committee on Judiciary recommends indefinite postponement of the original bill and the Substitute A and passage of Substitute B.

Senator Nesselbush moves passage, seconded by Senators Sosnowski and Miller.

The bill marked Substitute "B" is read and passed, and the original bill indefinitely postponed, by unanimous consent, upon a roll call vote with 26 Senators voting in the affirmative and 12 Senators voting in the negative as follows:

YEAS - 26: Senators Algieri, Archambault, Bates, Conley, Cool Rumsey, Crowley, DaPonte, Doyle, Fogarty, Gallo, Goldin, Goodwin, Hodgson, Jabour, Kettle, Lombardo, Lynch, Miller, Nesselbush, Ottiano, Pearson, Pichardo, Raptakis, Satchell, Sheehan, Sosnowski.

NAYS - 12: The Honorable President Paiva Weed and Senators Ciccone, Cote, DiPalma, Felag, Lombardi, McCaffrey, Metts, O'Neill, Picard, Ruggerio, Walaska.

**AT EASE**

The Senate stands at ease at 5:46 o'clock P.M

**CALLED TO ORDER**

The Senate is called to order by the Honorable M. Teresa Paiva Weed, President of the Senate, on Wednesday, April 24, 2012, at 5:49 o'clock P.M.

**ANNOUNCEMENT**

Upon suggestion of Senator Goodwin and without objection, seconded by Senator Bates, ordered to move the remaining items on the Calendar for tomorrow, Thursday, April 25, 2013.

**TRANSMITTAL**

By unanimous consent, all matters on the Secretary's desk are ordered to be transmitted to His Excellency, the Governor, the Honorable Secretary of State or to the Honorable House of Representatives forthwith.

(See Appendix for List)

**ADJOURNMENT**

Upon motion of Senator Goodwin seconded by Senator Bates the Senate adjourns at 5:50 o'clock P.M.

**JOSEPH R. BRADY**  
Secretary of the Senate

**Appendix****INVOCATION****SENATOR DAWSON T. HODGSON**

Dear Lord, We ask you to grant all of us together the wisdom and strength to lead our people. Give us courage as we debate the matters of civil society; and Your Grace to heal the divisions within our state, As we continue to work for peace, prosperity and love for all the families of Rhode Island.

**Appendix****CALENDAR****IN ORDER FOR THURSDAY, APRIL 25, 2013:**

- 1. 2013-S 495 SUB A**  
**BY** Walaska  
**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Committee on Environment & Agriculture recommends indefinite postponement of the original bill and passage of Substitute A.
- 2. 2013-S 641 SUB A**  
**BY** Walaska  
**ENTITLED**, AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -  
DISTRIBUTED GENERATION STANDARD CONTRACTS

Committee on Environment & Agriculture recommends indefinite postponement of the original bill and passage of Substitute A.
- 3. 2013-S 236 SUB A**  
**BY** DiPalma  
**ENTITLED**, AN ACT RELATING TO ALCOHOLIC BEVERAGES --  
MANUFACTURING AND WHOLESALE LICENSES

Committee on Special Legislation and Veterans Affairs recommends indefinite postponement of the original bill and passage of Substitute A.
- 4. 2013-S 477**  
**BY** Goodwin  
**ENTITLED**, AN ACT RELATING TO ALCOHOLIC BEVERAGES - RETAIL  
LICENSES

Committee on Special Legislation and Veterans Affairs recommends passage.
- 5. 2013-S 480**  
**BY** Felag  
**ENTITLED**, AN ACT RELATING TO MILITARY AFFAIRS AND DEFENSE

Committee on Special Legislation and Veterans Affairs recommends passage.

- 6. 2013-S 501**  
**BY Felag**  
**ENTITLED, AN ACT RELATING TO MILITARY AFFAIRS AND DEFENSE --**  
**EMERGENCY MANAGEMENT**

Committee on Special Legislation and Veterans Affairs recommends passage.
- 7. 2013-S 467**  
**BY Archambault**  
**ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES --**  
**OPERATORS' AND CHAUFFEURS' LICENSES**

Committee on Judiciary recommends passage.
- 8. 2013-S 490**  
**BY McCaffrey**  
**ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE - SENTENCE AND**  
**EXECUTION**

Committee on Judiciary recommends passage.
- 9. 2013-S 619**  
**BY Nesselbush**  
**ENTITLED, AN ACT RELATING TO DOMESTIC RELATIONS - EXCHANGE OF**  
**INFORMATION IN SUPPORT OF CHILD SUPPORT COLLECTION**

Committee on Judiciary recommends passage.
- 10. 2013-S 659**  
**BY McCaffrey**  
**ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES - TRAFFIC**  
**CONTROL DEVICES**

Committee on Judiciary recommends passage.
- 11. 2013-S 660**  
**BY McCaffrey**  
**ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES -**  
**OPERATORS' AND CHAUFFEURS' LICENSES**

Committee on Judiciary recommends passage.
- 12. 2013-S 661**  
**BY Felag**  
**ENTITLED, AN ACT RELATING TO MOTOR AND OTHER VEHICLES**

Committee on Judiciary recommends passage.